40933

FCM

FEDERATION OF CANADIAN MUNICIPALITIES

Brief to the Standing Senate Committee on Banking, Trade and Commerce

The Senate of Canada

603-140 Wellington Street

Ottawa

August 28, 1990

9:30 a.m.

Federation of Canadian Municipalities
Fédération canadienne des municipalités

24, rue Clarence Street
Ottawa, Ontario K1N 5P3
(613) 237-5221
Fax. Telecopieur: (613) 237-2965
Envoy 100: FCM.ADMIN
Telex: 053-4451
International Office
Bureau international (613) 563-3506

Councillor **Ray O'Neill**
St. John's Newfoundland
President
Président

Councillor **Doreen Quirk**
Markham, Ontario
First Vice President
Premier vice-president

Le maire **Margaret Delisle**
Sillery (Québec)
Deuxième vice-présidente
Second Vice President

Alderman **Ron Hayter**
Edmonton, Alberta
Third Vice President
Troisième vice-président

Mayor **George Ferguson**
Abbotsford, British Columbia
Past President
Président sortant

James W. Knight
Executive Director
Directeur général

FEDERATION OF CANADIAN MUNICIPALITIES

Brief to the Standing Senate Committee on Banking, Trade and Commerce

The Senate of Canada
603-140 Wellington Street
Ottawa

August 28, 1990
9:30 a.m.

Honourable Senators,

We appreciate the opportunity you have provided to the Federation of Canadian Municipalities to review the impact of the Goods and Services Tax on local government operations in Canada.

As a general comment, it is fair to say that municipal officials, be they elected or appointed, have no less concern about the proposed Goods and Services Tax than the Canadian population in general. Canadians are uneasy about the complexity of the tax, its possible inflationary effects, its long term economic consequences and the equity of its application. Like others, we have doubts whether the administrative machinery will be fully in place by January 1, 1991 to ensure that implementation is achieved easily and without undue stress. We have already suggested that postponement of implementation may be appropriate.

However, FCM confines its interventions to those areas of immediate application to municipal administration and within the competence and purview of municipal authority and responsibility. We do not consider it our role as an association to tell the Government of Canada how to fulfil its constitutional responsibilities or how to exercise its taxing authority any more than we would happily accept direction from the Federal Government in suggesting to municipalities how they should go about levying property taxes.

With respect to the Goods and Services Tax, we have limited our involvement to the application of this tax to municipalities and specifically to the impact of the tax on the cost of municipal services.

The White Paper on Sales Tax Reform released by the Minister of Finance on June 18, 1987 contained notions which, if implemented, would have weakened local government. Effectively, the White Paper proposed to levy huge new taxes on municipal inputs and outputs which would have had the effect of eliminating any distinction between the public and private sectors. FCM was not long in raising concerns regarding both the economic and social consequences of these proposals.

In December of that same year, the Minister of Finance, following meetings with FCM, announced that not only would the broad range of municipal services be tax-exempt, but also that steps would be taken to ensure that municipalities, universities, schools and hospitals would be protected from any greater burden under the GST than they were already bearing under the existing federal sales tax regime.

Commencing early in 1988 and proceeding through 1989 and into the current year, representatives of the Federation of Canadian Municipalities met on many occasions with officials from the Departments of Finance and Revenue to discuss mechanisms for implementing the commitment and to determine the current FST burden on municipal operations with a view to ensuring that the GST burden was no greater.

The analysis was immensely difficult. The task of measuring the FST burden was problematic in the extreme. A variety of mechanisms for reducing the GST burden were explored. The message I want to leave is that the process of negotiation with the Minister of Finance and his officials was open, complete and in the end achieved a positive result. We commend the Minister for his commitment to negotiation.

Following a lengthy meeting on May 11, 1990, FCM and the Minister of Finance announced that a conditional agreement had been reached which was satisfactory to both parties. It was the view of our technical experts and our political representatives that the rebate of 57.14% would indeed constitute no greater burden, provided related matters could be successfully resolved.

Our endorsement, however, was conditional. The following are matters which were not yet fully resolved to our satisfaction.

1) The definition of a municipality for purposes of the 57.14% rebate.

2) Inter and intra-municipal transfers.

3) Some municipal services which may be contracted out.

4) The development of a streamlined accounting system to alleviate the potential administrative burden, particularly for small municipalities.

1) <u>Definition of "municipality"</u>

For purposes of organizational efficiency, most Canadian municipalities have established a variety of boards, commissions or authorities to deliver certain municipal services. The variety and diversity of these special purpose bodies is extensive. The City of Edmonton alone can identify 42 such bodies which it has established to deal with everything from regulating the taxi industry, to managing museums, to running the ambulances, convention centres, industrial parks, public libraries, non-profit housing, historic districts, hospitals and so on.

Section 123 of Bill C-62 provides the following definition of "municipality":

(a) an incorporated city, town, village, metropolitan authority, township, district, county or rural municipality or other incorporated municipal body however designated, and

(a) such other local authority as the Minister may determine to be a municipality for the purposes of this Part.

Our concern relates to the degree of flexibility the Minister may exercise in determining whether a para-municipal body created by a municipality is eligible for the 57.14% rebate.

We note that municipalities have the option of providing all of the services through municipal departments. For example, instead of establishing a non-profit housing corporation, a municipality in its own name could develop and supply non-profit housing. Were it to do so, the 57.14% rebate would be available for purposes of delivering non-profit housing.

It is much less clear whether these related bodies would be deemed to be "municipalities".

You may respond that since these are non-profit bodies in the main, they would be eligible for the 50% rebate available for non-profit organizations. While this will be true in some cases, it will not be true in others. Subsection 259(3) of the Law establishes the conditions to be met by a non-profit organization to be entitled to the 50% tax rebate.

(3) For the purposes of this section, a person is a qualifying non-profit organization at any time in a fiscal year of the person if, at that time, the person is a non-profit organization and the percentage of government funding of the person for the year is at least 40%.

Many para-municipal corporations carrying on non-profit activities and providing exempt supplies do not meet the test of 40% of government funding. Therefore, they may be neither entitled to the 57.14% rebate available to municipalities nor the 50% rebate available to non-profit organizations.

For example, a municipal housing authority, established and subsidized by a municipality, typically will derive the largest part of its revenues from rents. Accordingly, it would not be deemed to be a non-profit organization.

Interestingly, in this example, since housing rents will be tax-exempt, neither would a municipal non-profit housing corporation be entitled to any input tax credits.

There is a danger there that a municipal non-profit housing corporation would, in the words of Federal Finance officials, "fall off the table all together" with respect to equitable treatment under the GST. It could have all of the disadvantages and none of the advantages including input tax credits.

To prevent such abuses, we suggest that any para-municipal body would qualify as a municipality in cases where such an organization is accountable to the local government, and is owned or controlled by the local government through appointment of that organization's senior management or through control over the composition of its governing body, and files an election to obtain such status.

2) Inter and Intra-municipal Transfers

The structures under which municipal operations are conducted vary significantly across Canada. In the Prairie provinces, the prevailing mode of organization is often described as the "uni-city" concept. The uni-city is an integrated and comprehensive municipal government which performs or controls all municipal services within its designated boundaries.

In contrast, some other provinces including Ontario, Québec, British Columbia and others, have created regional municipal governments to provide services which extend beyond the boundaries of local municipalities.

The purpose of these structures is to maintain the benefits of truly local government while at the same time providing for services which are more efficiently or more adequately delivered on a regional basis.

There is significant variation, however, as to what types of services may be delivered on a regional basis and what types of services may be delivered on a local basis across the country.

Typically, the governing body of a regional government, that is, a regional council, comprises either completely or partially, representatives of its constituent municipalities.

The tax bills issued within a region sometimes contain levies for both the local and regional governments. In other cases, only the local government establishes a tax levy, a part of which is then transferred to the regional government.

Whatever the case, and in whatever province, a whole range of supplies of goods or services is frequently made between regional governments and local governments, as well as between municipalities and their para-municipal corporations. These supplies may be made at fair market value, may be made on a cost recovery basis or may be made without consideration.

While some of these supplies will be tax-exempt, such as supplies of real properties, fire protection or police services, many will be taxable, such as the provision of the service of preparing assessment notices or the provision of a purchasing service.

Under Section 155 of Bill C-62, all these supplies will be deemed to be made at fair market value and the GST will be paid on this deemed value.

FCM proposes that the same arrangements apply to these public sector bodies as have been provided for the private sector. Specifically, Section 156 of Bill C-62 provides that members of a *closely related group* of corporations may file an election in order that supplies occurring between themselves in the course of their commercial activities be deemed to have been made for no consideration and therefore be tax-exempt. Unfortunately, certain qualifications with respect to the application of this section preclude urban communities and their participating municipalities from qualifying as a *closely related group*.

Our essential point is that the Goods and Services Tax should not constitute a bias in favour of or against existing municipal structures. It would seem inappropriate, even preposterous, that residents of the City of Québec would be treated differently than residents of the City of Regina for purposes of the GST simply because the former exists within a regional structure and the latter does not. To put it in other words, the GST should be established so as not to induce structural changes for the purpose of tax avoidance.

We therefore submit that provisions should be made to provide that supplies of goods and services between the members of a *related municipal group*, should be tax-exempt and that the following entities be considered eligible to become members of a *related municipal group*.

a) a municipality;

b) such other regional or local authority as the Minister may determine to be a municipality in accordance with Section 123 of Bill C-62; or

c) a non-profit organization controlled by a municipality or by any other local authority referred to above in paragraph b);

d) a body corporate established by a municipality or a local authority referred to in paragraph b) pursuant to an enabling Act such as City Charter; or

e) such other organization as the Minister may determine upon request by concerned parties to be a member of a *related municipal group*.

3) Municipal Services Provided by the Private Sector

Section 21 of Part VI of the Schedule annexed to Bill C-62 provides that a supply of a municipal service made by *or on behalf of* a government or municipality to owners or occupants of real property is tax-exempt where the owners or occupants have no

option but to receive the service. However, Subsection 20(h) provides that the supply of garbage collection services made by a government or municipality will be tax-exempt. The words *or on behalf of* are absent. The same situation exists in Section 23, which deals with the supply of unbottled water.

We note that the draft legislation tabled on October 13 provided that garbage collection and the supply of unbottled water made by *or on behalf of* a municipality would be exempt. Unfortunately, when Bill C-62 was tabled on January 24, these words were deleted.

We recommend that such supplies be deemed exempt even if provided by a third party on behalf of a municipality.

4) Streamlined Accounting

Finance officials have introduced certain notions with respect to streamlined accounting. Since these suggestions were made only on August 17, 1990, our Technical Committee has not yet had the opportunity to review them fully.

We do stress the importance of establishing a streamlined accounting arrangement. Because municipalities will receive unique treatment with respect to GST, and because their operations are intrinsically complex, an enormous burden of paper work is a distinct possibility. We are particularly concerned for those small municipalities which simply lack the staff and resources to conduct the complex procedures required to comply with the provisions of the Goods and Services Tax.

Accordingly, we attach very high priority to achieving a streamlined accounting arrangement, but as yet, we are not in a position to comment on specific proposals.

Respectfully submitted,

James W. Knight
Executive Director